REMARKS

In this Reply, Applicants have amended claims 1, 2, 4, 6, 7, 9, 11, 12, 14, 28, and 29. No new matter has been added. The Examiner withdrew claims 16-27 and 30-33 in connection with a restriction requirement, and accordingly Applicants have cancelled claims 16-27 and 30-33 without prejudice of their right to pursue them in divisional applications or disclaimer of their subject matter. Claims 1-15, 28, and 29 are currently under examination.

In the Office Action, the Examiner withdrew the previous rejections under 35 U.S.C. § 112, second paragraph and 35 U.S.C. § 101. The Examiner rejected claims 1-3, 5-8, 10-13, 15, 28, and 29 under 35 U.S.C. § 103(a) as being unpatentable over an article by Sabrina Ghani entitled "Plan for Bank-Capital Rules Spurs Doubts," Asian Wall Street Journal, p. 2 (June 7, 1999) ("Ghani") in view of an article by Jaret Seiberg entitled "Risk-Indexed Capital Rules Proposed by Global Panel," American Banker, vol. 164, issue 164, p. 1 (June 4, 1999) ("Seiberg"); and rejected claims 4, 9, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Ghani.[1]

Rejections under 35 U.S.C. § 103(a) in view of Ghani and Seiberg

In the Office Action ("OA"), the Examiner rejected claims 1-3, 5-8, 10-13, 15, 28, and 29 under 35 U.S.C. § 103(a) as being unpatentable over Ghani in view of Seiberg and rejected claims 4, 9, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Ghani. Applicants traverse because the rejections are mooted by the current claim

[1] To the extent that the Examiner characterized the claims or the teachings of the prior art in the office action, Applicants decline to agree with any such characterizations.

amendments and because the Office Action misinterpreted the scope and content of Ghani and Seiberg, as well as the differences between these references and the claims.

Regarding the claim amendments, amended independent claim 1 recites, among other things, "allocating credit risk for the subject pool among a plurality of parties, based on the credit risk rating and a loss performance of the subject pool in comparison to a reference pool of loans having similar characteristics to the loans in the subject pool." Neither Ghani nor Seiberg teaches anything related to a "reference pool of loans," a "loss performance of [a] subject pool [of loans] in comparison to [a] reference pool of loans," or "allocating credit risk . . . based on . . . a loss performance."

Ghani describes a Basel Committee proposal to adjust the capital reserve requirements of a bank or other lending institution based on the agency-rated credit risk associated with its loans. Ghani teaches one example under the proposal where, assuming an 8% base capital reserve requirement, a bank would reduce its risk-weighted capital requirement to, for example, 20% of the base 8% (i.e., 1.6%) for highly rated (low risk) loans and would increase its capital requirement to 150% of the base 8% (i.e., 12%) for low quality (high risk) loans. There is nothing in Ghani that teaches, hints at, or suggests a reference pool and the corresponding features recited in amended claim 1.

Similarly, Seiberg describes the same Basel Committee proposal as Ghani. Ghani adds details about the proposed capital reserve requirements for securitized assets, but nonetheless discloses nothing that teaches, hints at, or suggests a reference pool and the corresponding features recited in amended claim 1. Thus,

Ghani and Seiberg, whether taken alone or in any reasonable combination, fail to teach or suggest this element of claim 1 and fail to render claim 1 obvious.

For similar reasons, Ghani and Seiberg also fail to render obvious other features of claim 1. For example, amended independent claim 1 also recites "applying capital reserve requirements to the subject pool based on the credit risk rating and the credit risk allocated to a party subject to the capital reserve requirements for loans in the subject pool." As explained above, because Ghani and Seiberg contain no teachings related to "allocating credit risk . . . based on . . . a loss performance," these references cannot teach or suggest "applying capital reserve requirements to the subject pool based on . . . the credit risk allocated to a party . . . ." Because of the complete lack of disclosure in Ghani and Seiberg of at least these recited features of claim 1, the gap between the prior art and the claimed invention is so great that it renders the claim nonobvious to one reasonably skilled in the art. See M.P.E.P. § 2141.

For at least the forgoing reasons, independent claim 1 is patentable over the cited references. Independent claims 6, 11, 28, and 29, although of different scope, recite features similar to those discussed above with respect to claim 1, and thus are allowable over the cited art for at least the same reasons. Dependent claims 2-5, 7-10, and 12-15 are also allowable over the cited art at least by reason of their dependence from allowable independent claims. Accordingly, Applicants request the withdrawal of the section 103 rejections of claims 1-15, 28, and 29 and the issuance of a notice of allowance.

The dependent claims are also allowable because they recite additional elements not taught by the Ghani and/or Seiberg references. "[T]he framework for objective

analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966). . . . The factual inquiries . . . [include] determining the scope and content of the prior art ... [and] ascertaining the differences between the claimed invention and the prior art." M.P.E.P. § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III). Here, there is no *prima facie* case of obviousness because the Office Action misinterprets the scope and content of the prior art and the differences between the claimed invention and the prior art as, contrary to the contentions in the Office Action, the references fail to teach or suggest every element recited in the claims.

For example, claim 2 recites "for the party subject to the capital reserve requirements from the plurality of parties, capping a portion of the credit risk allocated to the party at a maximum level." As the Office Action acknowledges, Ghani does not teach or suggest allocating the credit risk among a plurality of parties. OA at 3, lines 2-3. Paragraph 11 of Ghani, which the Office Action nonetheless cites to support the rejection of claim 2, states that the Basel Committee's proposed risk weightings would reduce the amount of capital needed to back high quality assets and increase the amount of capital needed to back low quality assets. Seiberg contains similar teachings about the Basel Committee's proposed risk weightings. These proposed adjustments to the amount of capital have no effect on the bank's credit risk for holding the assets. The bank still has 100% of the credit risk, regardless of the amount of capital held, because the bank owns the assets and takes all losses, without limit, associated with the assets. Thus, there is no teaching or suggestion of a "portion of the credit risk," or of "capping a

portion of the credit risk . . . at a maximum level" because Ghani and Seiberg teach that the bank has 100% of the credit risk. Accordingly, the Office Action misinterprets the scope and content of the prior art, and claim 2 is nonobvious due to the large differences from Ghani and/or Seiberg. Claims 7 and 12 are allowable for similar reasons.

For another example, claim 3 recites that "the maximum level [of a party's portion of the credit risk] is a percentage of the subject pool value." Again, because Ghani and/or Seiberg do not teach or suggest a "portion of the credit risk," or "capping a portion of the credit risk . . . at a maximum level," these references cannot teach or suggest capping a party's portion of the credit risk at a percentage of the subject pool value. Accordingly, the Office Action misinterprets the scope and content of the prior art, and claim 3 is nonobvious due to the large differences from Ghani and/or Seiberg. Claims 8 and 13 are allowable for similar reasons. Similarly, claims 4, 5, 9, 10, 14, and 15 are allowable because they recite additional features related to allocating credit risk between parties, which are not disclosed or suggested in the cited art.

For these additional reasons, Ghani and/or Seiberg fail to disclose or suggest each and every element recited in dependent claims 1-5, 7-10, and 12-15, leaving large nonobvious gaps showing that these claims are allowable. Accordingly, Applicants respectfully request reconsideration and withdrawal of the section 103(a) rejection of all these claims.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Applicants believe that an interview with Applicants' representative (and perhaps some of the inventors) will assist in understanding the invention and expedite the examination of this long-pending application. Accordingly, Applicants invite the Examiner to contact the undersigned at 571-203-2748 to schedule an interview, and Applicants' representative will endeavor to do the same in the near future.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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